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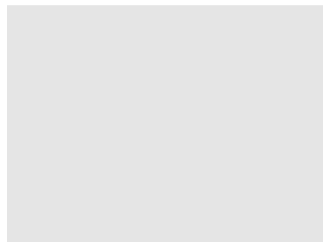
Gov. Doug Ducey's plan to make Arizona schools safer faces barrage of criticism

By Howard Fischer Capitol Media Services Apr 5, 2018



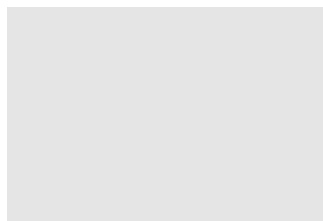
Gov. Doug Ducey's proposal to improve school safety was labeled "51 pages of utter BS" by a student activist in Mesa.

Mike Christy / Arizona Daily Star



State Rep. Mark Finchem, R-Oro Valley

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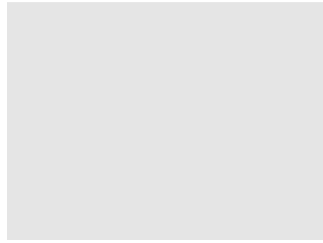


PHOENIX — Resistance from legislative Republicans to Gov. Doug Ducey's newly released school safety plan could leave it short of votes.

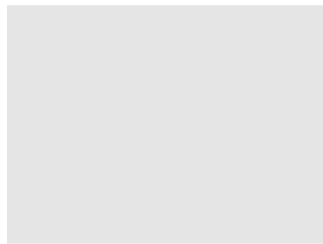
House and Senate Democrats declared the plan a nonstarter within hours of its printing because it doesn't require background checks when firearms are sold by individuals and at gun shows. Rep. Randy Fries, D-Tucson, said it makes no sense to say some people cannot buy guns from licensed dealers when "loopholes" in the law allow them to buy one anyway.

But Ducey also lacks the universal support of his fellow Republicans, who are anxious about provisions allowing police officers to seize guns and courts to hold people for

Rep. Eddie Farnsworth
R-Gilbert
Capitol Media Services

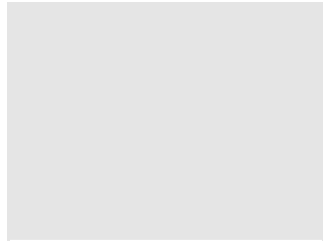


Rep. Kelly Townsend, R-Mesa
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Rep. Randy Friese, D-Tucson
Submitted

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psychological evaluation. Several Republicans told Capitol Media Services Wednesday that they will oppose the measure if there aren't sufficient protections not only for an individual's Second Amendment rights to possess a gun, but also the Fourth Amendment rights against improper seizure of person and property by the government.

There also are questions of whether additional laws are necessary.

It would take the refusal of just five House Republicans or two GOP senators to kill the plan.

Rep. Mark Finchem, R-Oro Valley, said Nikolas Cruz, the shooter who killed 17 people at a Florida high school, had made credible threats ahead of the Feb. 14 incident, which he said could have allowed police to act.

"The law wasn't the problem," Finchem said. "The performance of people was the problem."

He called it an "absolutely cruel deceit on people" to "put another law out there that looks politically expedient to solve a problem."

Gubernatorial press aide Daniel Scarpinato defended the package. "The current law is not strong enough," he said.

Scarpinato said the governor wants not only a "tougher" law but a broader one, allowing more people — including family members, roommates, teachers and others — to go to court on their own to ask a judge to have someone picked up and evaluated to see if their firearms should be seized.

It isn't just the question of constitutional rights raising legislative concerns.

House Majority Leader John Allen, R-Scottsdale, noted the package includes \$11 million for additional state-paid school safety officers. That would add about 110 officers on top of the 113 already being funded by the state, not including those financed by local schools or governments.

"It has some costs to it," Allen said. "I want to make sure it is not just window dressing to make it look like we're doing something, but actually achieves the effect we want."

The heart of Ducey's plan is the proposed "Severe Threat

with school shootings

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Order of Protection,” or STOP. It would permit a police officer to take someone into custody and before a judge if there is “probable cause” to believe the person is a danger to self or others and is likely to cause serious physical injury to another “unless immediate action is taken.”

Among the things a court could consider are a “credible threat of physical injury” and cruel mistreatment of an animal within the prior 14 days. If the judge agreed, the person could be held for up to 72 hours for evaluation, not including weekends and holidays.

A separate provision would allow family members, significant others, roommates and teachers to go to court to seek their own order of protection. It includes similar requirements for proof of some acts a judge could use to hold someone for evaluation.

“This is where we’re walking a really fine line,” said Rep. Eddie Farnsworth, R-Gilbert.

“We don’t want to remove people’s firearms simply on an allegation,” he said. “There has to be proof that a crime has been committed and that crime has risen to the level that somebody is at risk of being harmed.”

Farnsworth also cited provisions he said could deny someone’s constitutional rights to bear arms for longer than necessary, especially after a judge rejects a petition for an order of protection. “Now they’ve done nothing wrong,” he said. “That needs to be returned immediately.”

Ducey’s proposal says a firearm need not be returned for up to 72 hours — longer if there’s a holiday or weekend — after an order expires or is quashed.

And if a judge does not issue an order of protection, release of that person could take up to 24 hours, and the court could extend that to 48 hours.

House Majority Whip Kelly Townsend, R-Mesa, cited language allowing someone to be held for up to 72 hours before a judge makes a final decision on whether to maintain or quash an order of protection.

“I don’t think that the Fourth Amendment allows for the removal of a person from society without committing a crime or without adjudication of something,” she said.

There's the possibility of bias, Townsend said. "We also don't know the ideology of the psychiatrist or the ideology of the judge and whether or not they believe this is a good way to remove guns off the street," she said.

Townsend said she supports things like money for more school resource officers and ensuring that criminal histories are promptly uploaded into a database used by federal gun dealers to determine if someone is allowed to have a firearm.

But for the moment, lawmakers are being given an all-or-nothing choice on Ducey's plan.

"I will not vote for a violation of the Constitution," Townsend said.

Ducey may need Democrats' support to push the package over the finish line, support he won't get without expanded background checks.

"Unfortunately, the governor's draft legislation is about politics, not policy," said Friese, the Tucson Democrat.

But it's not just Ducey who won't consider expanded background checks.

"You're talking about private sales of private property," said Farnsworth, saying imposing a new restriction takes the state "down a very slippery slope."

Ducey's proposal also got a decidedly negative response from Jordan Harb, the Mesa Mountain View High School junior who, as co-chair of March For Our Lives, helped organize a student walkout last month to help draw lawmakers' attention to the issue of school violence.

In a prepared statement Wednesday, Harb called the proposal "51 pages of utter BS" and said the governor should "stop throwing pennies and empty promises at a problem that demands real funding and real action."

Harb wants not just universal background checks but also a ban on "bump stocks" and the hiring of more school counselors.